

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

**JOHN SOLIS, SR., and LUZ ELENA SOLIS,
and CECILIA ARBALLO and John Solis, Sr.,
as next friend of CHRISTIAN SOLIS, a minor and
John Solis, Sr., as next friend of LUIS A SOLIS, a Minor,**

Plaintiffs,

vs.

Cause No.

**MEILLENUR GILLES, and
2951291 CANADA, INC., d/b/a
TRANSPORT RAYMOND HUDON and
ZURICH AMERICAN INSURANCE COMPANY,**

Defendants.

NOTICE OF REMOVAL

COME NOW, Defendant Zurich American Insurance Company (hereinafter “Zurich”), by and through its counsel of record, Allen, Shepherd, Lewis, Syra & Chapman, P.A. (Donna L. Chapman and Tami L. Keating), and hereby file this Notice of Removal pursuant to 28 U.S.C. § 1441, and in support thereof, state as follows:

1. Plaintiffs John Solis, Sr., Luz Elena Solis, Cecilia Arballo, Christian Solis, and Luis A. Solis (collectively, the “Plaintiffs”) served a Complaint upon Defendant Zurich on or about August 26, 2010.
2. The other Defendants in this case, Meillenur Gilles and 2951291 Canada, Inc. d/b/a Transport Raymond Hudon (hereinafter “TRH”), have not yet been properly served.

3. Plaintiffs' Complaint was filed in the First Judicial District, County of Santa Fe, State of New Mexico, in Cause No. D-101-DV-2010-02867.

4. Defendants' counsel obtained an extension to answer from Plaintiffs' counsel on September 22, 2010.

5. Defendant Zurich is a corporation incorporated in New York with its principal place of business in Illinois.

6. Pursuant to 28 U.S.C. § 1441(b), the Defendant Zurich is not a citizen of New Mexico.

7. Plaintiffs are all citizens of New Mexico.

8. Pursuant to 28 U.S.C. § 1332(a), diversity of citizenship exists between all parties.

9. Pursuant to 28 U.S.C. § 1446 (a), a copy of all process, pleadings, and orders served upon the Defendants in the State Court Action to date are attached to this Notice as Exhibit A.

10. Plaintiffs' Complaint includes two counts, entitled (a) Negligence – Defendant Gilles, (b) Negligence – TRH. Plaintiffs' Complaint generally alleges that a commercial freight vehicle driven by Defendant Gilles within the course and scope of his employment with Defendant TRH allegedly struck a single vehicle occupied by all Plaintiffs. (*See* Ex. A, Compl. at ¶¶ 17-19.)

11. Pursuant to 28 U.S.C. § 1332(a), Plaintiffs complaint claims that the amount in controversy exceeds \$75,000 exclusive of interest and costs.

12. By and through this Notice of Removal, the Defendants remove all claims asserted against them on the basis of diversity jurisdiction, conferred upon this Court under 28 U.S.C. § 1332.

13. If the amount in controversy for one or more Plaintiffs does not exceed \$75,000.00, this Court should exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 because (a) any such claims relate to the claims over which this Court would have original jurisdiction such that all claims form part of the same case or controversy, (b) this lawsuit does not involve claims under Rules 14, 19, 20 or 24 of the Federal Rules of Civil Procedure that would be inconsistent with the diversity jurisdictional requirements of Section 1332, and (c) any claims that do not satisfy the amount in controversy requirement for diversity jurisdiction do not raise a novel or complex issue of state law, would not substantially predominate over the claims over which this Court has original jurisdiction and would not produce any compelling reason for this Court to decline to exercise supplemental jurisdiction.

14. This Court has jurisdiction over all claims in this case pursuant to 28 U.S.C. §§ 1332, 1367 & 1441(a).

15. A copy of the Docket Sheet in the State Court Action is attached to this Notice as Exhibit B.

16. Pursuant to 28 U.S.C. § 1446 (d), written notice of the filing of this Notice of Removal is being served upon the Plaintiffs on this date.

17. The Defendants are filing a Notice of Filing Notice of Removal, a copy of which is attached to this Notice as Exhibit C, with the Clerk of the First Judicial District, County of Santa Fe, State of New Mexico, pursuant to 28 U.S.C. § 1446 (d), together with this Notice.

18. Pursuant to D.N.M.LR-CIV. 81.1(a), Defendants will submit copies of the records and proceedings from the state court action within thirty days of filing this Notice of Removal.

WHEREFORE, the removing Defendant, Zurich American Insurance Company, gives notice that the above-styled action, which was pending in the First Judicial District, County of Bernalillo, State of New Mexico, as Cause No. D-101-DV-2010-02867, is removed to this Court.

Electronically Filed,

\s\ Donna L. Chapman, Attorney At Law

Address: 4801 Lang NE Suite 200
Albuquerque, NM 87109

Phone #: (505) 341-0110

I HEREBY CERTIFY that on the 6th day of October, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Thomas McLarty, Esq., Counsel for Plaintiff
Thomas@mclartylaw.net

\s\
Donna L. Chapman, Attorney for
Defendant Zurich American Insurance Company